

02-0404

1644

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Goulmy et al.

Serial No.: 09/489,760

Filed: January 21, 2000

For: THE HA-1 ANTIGEN

Confirmation No.: 6225

Examiner: P. Huynh

Group Art Unit: 1644

Attorney Docket No.: 2183-4285US

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV326919522US

Date of Deposit with USPS: February 6, 2004

Person making Deposit: Christopher Haughton

DECLARATION OF DR. VICTOR H. ENGELHARD

For

PETITION FOR A RETROACTIVE LICENSE

UNDER 35 U.S.C. § 184

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Petition for a Retroactive License Under 35 U.S.C. § 184, was filed February 5, 2004, for the above-referenced application.

The executed declaration of Dr. Victor H. Engelhard, which was referenced in said petition is submitted herewith.

The applicants note that said petition erroneously switched the names of the inventors. The declaration of Dr. Victor H. Engelhard was not submitted with said petition, as was

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erroneously stated therein, but is submitted herewith. The declaration by Dr. Donald F. Hunt was submitted with said petition, although the petition indicated that it would be submitted later.

The declarations of both inventors have now been submitted with respect to said petition and the petition is in proper form to be granted.

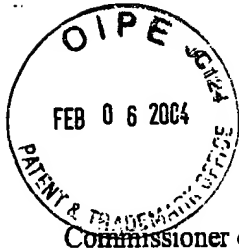
In the event questions remain after consideration of these remarks, the Office is kindly requested to contact the undersigned at the number provided herein.

Respectfully submitted,



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Date: February 6, 2004
GSD/gsd



DECLARATION OF VICTOR H. ENGELHARD

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

I, Victor H. Engelhard, declare that:

1. I am over twenty-one years of age and competent to give sworn testimony.
2. I am a named co-inventor in United States Patent Application Serial No. 09/489,760 entitled "The HA-1 Antigen" filed on January 21, 2000. I am informed and believe that Rijksuniversiteit te Leiden is an assignee of United States Patent Application Serial No. 09/489,760.
3. I am informed and believe that the foreign-filed applications referenced in the PETITION FOR A RETROACTIVE LICENSE UNDER 35 U.S.C. § 184, submitted herewith, were filed in a foreign country in error and without deceptive intent.
4. Pursuant to 37 C.F.R. § 5.25(a)(3)(i), I am informed and believe that the foreign filed applications and patents relating to the present application were not under a secrecy order at the time of filing, have not been under a secrecy order at any time since, and are not currently under a secrecy order. For example, a foreign filing license was granted upon entry of the referenced PCT application into the United States Patent and Trademark Office as of April 12, 2000, (application number 09/489,760) thereby indicating the absence of a secrecy order since that time. Furthermore, the invention is related to immunology and treatment of such diseases as anemia, leukemia and immune deficiency diseases, which subject matter I am informed and believe does not fall within the scope of 35 U.S.C. § 181.
5. Pursuant to 37 C.F.R. § 5.25(a)(3)(ii), I was first informed of a potential need for a foreign filing license on February 4, 2004, and have diligently executed this declaration in pursuit of a retroactive foreign filing license.
6. Pursuant to 37 C.F.R. § 5.25(a)(3)(iii), I am informed and believe that the foreign-filed applications and patents relating to the present application were filed abroad, without a foreign filing license under 37 C.F.R. § 5.11 first having been obtained, through error and without deceptive intent. I am informed and believe that the Rijksuniversiteit te Leiden

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(University of Leiden) filed and prosecuted the applications through the appropriate Patent Offices for the Netherlands.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of second joint inventor: Victor H. Engelhard

Inventor's signature Victor H. Engelhard Date 2/6/2004
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